

Ordinance No: 16-19
Zoning Text Amendment No: 08-04
Concerning: Accessory Structures –
Solar Panels
Draft No. & Date: 1 -3/6/08
Introduced: March 18, 2008
Public Hearing: April 22, 2008
Adopted: June 17, 2008
Effective: July 7, 2008

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Berliner and Trachtenberg

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow certain accessory structures in the side yard of one-family residential zones;
and
- generally amend the standards related to accessory structures in one-family residential zones.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-1. "RESIDENTIAL ZONES, ONE-FAMILY"
Division 59- C-1.32. "Development standards."

EXPLANATION: ***Boldface** indicates a heading or a defined term.*
*Underlining indicates text that is added to existing laws
by the original text amendment.*
*[Single boldface brackets] indicate text that is deleted from
existing law by the original text amendment.*
*Double underlining indicates text that is added to the text
amendment by amendment.*
*[[Double boldface brackets]] indicate text that is deleted
from the text amendment by amendment.*
** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment (ZTA) 08-04, sponsored by Councilmembers Berliner and Trachtenberg, would allow solar panels in residential side yards if:

- 1) the distance between the side lot line and the structure is not less than 50 feet; and
- 2) the height of the structure is less than 20 feet.

The Department of Permitting Services (DPS) told a homeowner that a pole erected for a solar panel was an accessory structure that was prohibited in the side yard of a residential lot. This action prompted the ZTA's introduction.

The Council held a public hearing on ZTA 08-04 on April 22, 2008. A solar panel contractor spoke in favor of the ZTA. The Planning Board supported ZTA 08-04 as introduced, provided that the ZTA would not be used to allow solar energy as a commercial enterprise in residential zones. The Planning Staff also supported the ZTA, noting that the ZTA could be helpful to any lot that had approximately 120 linear feet of street frontage. The staff report provides a description of photovoltaic solar cells and various mounting options being used for them.

The Planning, Housing, and Economic Development Committee held a worksession on May 2, 2008 to review the text amendment. After careful review of the materials of record, the Committee recommended expanding the scope of ZTA 08-04 to include pole or ground mounted solar collector systems that collect, store, and distribute solar energy for electricity generation, space heating, space cooling, or water heating. The Committee found the ZTA as introduced to be overly restrictive in the types of structures allowed given the public interest in allowing more opportunities to harness solar energy; however, the Committee did not recommend allowing wind powered devices in a side yard. The Committee recommended amending the ZTA so that it did not allow a building in a side yard with devices on its roof. The Committee also recommended removing the minimum distance between the main building and a side lot line from the ZTA, but retaining the minimum distance between the accessory structure and the side lot line.

On June 10, 2008 the District Council agreed with the Committee's recommendation.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 08-04 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-C-1 Residential Zones- One-family is amended as follows:

Division 59- C-1.32. Development standards.

In addition to the following, the regulations in sections 59-C-1.34, 59-C-1.35 and 59-C-1.36 shall apply:

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	RE-2	RE-2C	RE-1	R-200	R-150 ³	R-90	R-60	R-40 ²	R-4 plex	RMH 200
<p>59-C-1.326. Yard Requirements for an Accessory Building or Structure (in Feet). (a) For all lots. <u>(1) Except as provided for in subsections (2), an [An] accessory building or structure must be located in a rear yard and must not occupy more than 20 percent of the rear yard.</u> <u>(2) If the main building is setback no less than 70 feet from a side lot line, an accessory structure used to generate electricity from solar energy may be located within that 70 foot setback if the structure is:</u> <u>(A) located no less than 50 feet from a side lot line;</u> <u>(B) less than 20 feet in height; and</u> <u>(C) the structure satisfies the street line and rear lot line setbacks under subsection (3).</u></p>										

[(2)] (3) An accessory building or structure must be set back from the lot lines with a minimum setback as follows:										
(A) From the street line:	80	80	80	65	65	60	60	60		65
(B) From a rear lot line:	10	10	10	7	7	5	5	5		7
(C) From a side lot line:	15	15	15	12	12	5	5	5		12
(D) From a national historical park boundary line unless the accessory structure on the lot or tract is exempted under Sec. 59-B-2.1 ¹⁰ .	200	200	200							
[(3)] (4) For any accessory building or structure in the zones indicated thus (*) with a height greater than 15 feet, the side yard and rear yard minimum setback must be increased from the requirements in [(2)] (3) above at a ratio of 2 feet of additional setback for each foot of height in excess of 15 feet.						*	*	*		
[(4)] (5) For any accessory building or structure, except a swimming pool, as defined in 59-A-2.1, in the zones indicated thus (*) with a length along a rear or side						*	*	*		

property line which has a linear dimension greater than 24 feet, the minimum setback from that rear or side property line must be increased from the requirement in [(2)] (3) above at a ratio of one foot for every 2 feet that the dimension exceeds 24 linear feet.										
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Sec. 2. Effective date. This ordinance takes effect 20 days after the date of Council adoption.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council